

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JOSHUA CROW,  
 #1031190

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

3:10-cv-00486-ECR-RAM

**ORDER**

On August 8, 2010, the court received a handwritten document from plaintiff styled “Civil Rights Complaint, Notice of Intent” (docket #1-1). Such document is insufficient to initiate a civil rights action in this court. The Local Rules require plaintiffs appearing in *pro se*, such as this plaintiff, to file all of their complaints and petitions on the court’s approved forms. LSR 2-1(“[a] civil rights complaint filed by a person who is not represented by counsel shall be on the form provided by this court.”). Accordingly, the Clerk shall not file this document (docket #1-1). Further, plaintiff has failed to submit a complete application to proceed *in forma pauperis*, with the required financial certificate and inmate trust account information.

The court also notes that, in its preliminary review, plaintiff appears to attempt to challenge his underlying conviction through a claim of ineffective assistance of counsel. However, when

1 a prisoner challenges the legality or duration of his custody, or raises a constitutional challenge which  
2 could entitle him to an earlier release, his sole federal remedy is a writ of *habeas corpus*. *Preiser v.*  
3 *Rodriguez*, 411 U.S. 475 (1973); *Young v. Kenny*, 907 F.2d 874 (9th Cir. 1990), *cert. denied* 11 S.Ct.  
4 1090 (1991). Moreover, when seeking damages for an allegedly unconstitutional conviction or  
5 imprisonment, “a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct  
6 appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such  
7 determination, or called into question by a federal court’s issuance of a writ of habeas corpus, 28 U.S.C.  
8 § 2254.” *Heck v. Humphrey*, 512 U.S. 477, 487-88 (1994). “A claim for damages bearing that  
9 relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983.”  
10 *Id.* at 488.

11 **IT IS THEREFORE ORDERED** that the Clerk **SHALL SEND** to plaintiff the  
12 approved forms for filing a civil rights lawsuits under 42 U.S.C. §1983 and an Application to Proceed  
13 *In Forma Pauperis* by a prisoner, as well as the document “Information and Instructions for Filing a  
14 Motion to Proceed *In Forma Pauperis*.” Within **thirty (30)** days from the date of entry of this order,  
15 plaintiff **SHALL FILE** a completed and signed complaint along with the application to proceed *in*  
16 *forma pauperis* on the form provided by this court, as well as all requisite financial information, if he  
17 is unable to pay the filing fee. Plaintiff’s failure to do so may result in the immediate dismissal of the  
18 entire action.

19 **IT IS FURTHER ORDERED** that the Clerk shall send to plaintiff a blank petition for  
20 writ of *habeas corpus* form with instructions.

21 DATED: October 25, 2010.



22  
23 UNITED STATES MAGISTRATE JUDGE  
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